

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18707.1. Public Generally. General Rule.

(a) Except as provided in Government Code sections 87102.6 and 87103.5, the material financial effect of a governmental decision on a public official's economic interests is indistinguishable from its effect on the public generally if both subdivisions (b)(1) and (b)(2) of this regulation apply.

(b) Significant Segments and Indistinguishable Effects.

(1) Significant Segment. The governmental decision will affect a "significant segment" of the public generally if any of the following are affected as set forth below:

(A) Individuals. For decisions that affect the personal expenses, income, assets, or liabilities of a public official or a member of his or her immediate family, or that affect an individual who is a source of income or a source of gifts to a public official, the decision also affects:

(i) Ten percent or more of the population in the jurisdiction of the official's agency or the district the official represents; or

(ii) 5,000 individuals who are residents of the jurisdiction.

(B) Real Property. For decisions that affect a public official's interest in real property, the decision also affects:

(i) Ten percent or more of all property owners or all residential property owners in the jurisdiction of the official's agency or the district the official represents; or

(ii) 5,000 property owners or residential property owners in the jurisdiction of the official's agency.

(iii) While the public official must identify ten percent or more of residential property owners or 5,000 residential property owners as provided above, and not residential properties, for purposes of subdivision (b)(1)(B) the official may choose to count each residential property affected as being owned by one property owner if, and only if, the official counts himself or herself as the sole owner of the public official's residential property regardless of his or her actual ownership interest.

(iv) For purposes of this subdivision, residential property means any real property that contains a single family home, or a multi-family structure of four units or fewer, on a single lot, or a condominium unit.

(C) Business Entities. For decisions that affect a business entity in which a public official has an economic interest, the decision also affects either 2,000 or twenty-five percent of all business entities in the jurisdiction or the district the official represents, so long as the effect is on persons composed of more than a single industry, trade, or profession. For purposes of this subdivision, a not for profit entity other than a governmental entity is treated as a business entity.

(D) Governmental Entities. For decisions that affect a federal, state or local government entity in which the public official has an economic interest, the decision will affect all members of the public under the jurisdiction of that governmental entity.

(E) Exceptional Circumstances. The decision will affect a segment of the population which does not meet any of the standards in subsections (b)(1)(A) through (b)(1)(D), however, due to exceptional circumstances regarding the decision, it is determined such segment constitutes a significant segment of the public generally.

(2) Substantially the Same Manner: The governmental decision will financially affect a public official's economic interest in substantially the same manner as it will affect the

significant segment identified in subdivision (b)(1) of this regulation. The financial effect need not be identical for the official's economic interest to be considered "financially affected" in "substantially the same manner."

(A) Comparing Financial Effects on Real Property: For a decision that affects a public official's economic interest in his or her real property, financial effects are measured in terms of the overall dollar amount of the increase or decrease in the value of the property and not by a percentage increase or decrease affecting property values as a whole. Factors to be considered in determining the financial effect on the official's property in comparison with the financial effect on the public generally include, but are not limited to, the following:

(i) The magnitude of the financial effect of the governmental decision on the official's property as compared with other properties contained within the significant segment;

(ii) The lot size of the official's property compared with other properties contained within the significant segment (e.g., one acre versus 10 acres);

(iii) The square footage of the building space of the property compared with the square footage of the building space of other properties contained within the significant segment;

(iv) The proximity of the official's property to the property that is the subject of the governmental decision compared with the proximity of other properties contained within the significant segment;

(v) The number of units/parcels owned by the official compared to others in the significant segment;

(vi) The physical characteristics or permitted use of the property (i.e., historical, commercial, residential) as compared to other properties in the significant segment;

(vii) The location of the official's property compared with the location of other properties contained within the significant segment;

(viii) The neighborhood in which the official's property is located is comparable to the neighborhoods in which other properties contained within the significant segment are located;

(ix) The quality of the structure contained on the official's property compared with the quality of other structures contained on properties within the significant segment;

(x) The current fair market value of the property as compared to other properties in the significant segment;

(xi) Improvements made to the official's property as compared with other properties contained within the significant segment;

(xii) The developmental potential or income producing potential of the real property in which the official has an economic interest compared with other properties contained within the significant segment; and

(xiii) The character of the effects on the neighborhood of the property in which the official has an economic interest including, but not limited to, substantial effects on: traffic, view, privacy, intensity of use, noise levels, air emissions, or similar traits of the neighborhood compared with the neighborhoods of other properties contained within the significant segment.

Comment: The term "affect all members of the public" as used in subdivision (b)(1)(D) above, is intended to cover decisions affecting the public in general but to exclude decisions that uniquely benefit a public official.

Note: Authority cited: Section 83112, Government Code. Reference: Section 87103, Government Code.

HISTORY

1. New section filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of Government Code section 11380.2 and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).
2. Renumbering of former section 18707.1 to section 18707.2 and new section 18707.1 filed 1-16-2001; operative 2-1-2001. Submitted to OAL for printing only pursuant to *Fair Political Practices Commission v. Office of Administrative Law, Linda Stockdale Brewer*, Sacramento Superior Court, Case No. 51275 (1991); Third District Court of Appeals, 3 Civil C010924 (1992) (Register 2001, No. 3).
3. Amendment of subsections (b)(1)(B), (b)(1)(C) and (b)(2) filed 6-15-2004; operative 6-15-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 25).
4. Amendment filed 1-9-2007; operative 2-8-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third District Court of Appeal, unpublished decision, 1992. (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2007, No. 2).